

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

FRANK DePETRO,

Plaintiff,

v.

MICHAEL MINEV, et al.,

Defendants.

Case No. 2:22-cv-00817-MMD-NJK

**ORDER**

This action began with a pro se civil-rights complaint submitted under 42 U.S.C. § 1983 by a state prisoner. Plaintiff Frank DePetro has applied to proceed *in forma pauperis*. Docket No. 1. Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on August 1, 2022. Docket No. 6. The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. Docket Nos. 6, 9. The parties did not reach a settlement at the medication conference. Docket No. 11.

Accordingly, for the reasons stated above, IT IS ORDERED that:

1. Plaintiff's application to proceed *in forma pauperis*, Docket No. 1, is **GRANTED**. Pauper status doesn't relieve Plaintiff of the obligation to pay the full \$350 filing fee under the statute; it just means that Plaintiff can do it in installments. Plaintiff is not required to pay an initial installment of the filing fee and Plaintiff is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of security. The full filing fee must still be paid under 28 U.S.C. § 1915(b)(2), however, even if this action is later dismissed.

2. To ensure that Plaintiff pays the full filing fee, the Nevada Department of Corrections will forward payments from the account of **Frank J. DePetro, #77627** to the Clerk of the United States District Court, District of Nevada, 20% of the preceding month's deposits (in

1 months that the account exceeds \$10) until the full \$350 filing fee has been paid for this action.

2 3. Service must be perfected no later than April 6, 2023, as required under Federal  
3 Rule of Civil Procedure 4(m).

4 4. Subject to the findings of the screening order, Docket No. 6, no later than January  
5 27, 2023, the Attorney General's Office will file a notice advising the Court and Plaintiff of (a) the  
6 names of the defendants it accepts service for, (b) the names of the defendants it does not accept  
7 service for, and (c) the names of the defendants it is filing last-known-address information for  
8 under seal. As to any named defendant the Attorney General's Office cannot accept service for,  
9 the Office will file under seal—but will not serve the inmate Plaintiff—the defendant's last-known  
10 address, if it has such information. If the last-known address of any defendant is a post office box,  
11 the Attorney General's Office will attempt to obtain and provide the defendant's last-known  
12 physical address.

13 5. If service cannot be accepted for any named defendant, Plaintiff will file a motion  
14 identifying the unserved defendant(s), requesting issuance of a summons(es), and specifying a full  
15 name and address for the defendant(s). If the Attorney General's Office has not provided last-  
16 known-address information for any such named defendant, Plaintiff will provide the defendant's  
17 full name and address.

18 6. Any defendant for which the Attorney General's Office accepts service of process  
19 will file and serve an answer or other response to the First Amended Complaint, Docket No. 5, no  
20 later than March 7, 2023.

21 7. Plaintiff will serve upon defendant(s) or, if an appearance has been entered by  
22 counsel, upon their attorney(s), a copy of every pleading, motion, or other document Plaintiff  
23 submits for the Court's consideration. If Plaintiff electronically files a document with the Court's  
24 electronic-filing system, no certificate of service is required. Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc.  
25 R. IC 4-1(b); Nev. Loc. R. LR 5-1. However, if Plaintiff mails the document to the Court, Plaintiff  
26 will include with the document a certificate stating the date that a true and correct copy of the  
27 document was mailed to defendant(s) or their counsel. If counsel has entered a notice of  
28 appearance, Plaintiff will direct service to the individual attorney(s) named in the notice of

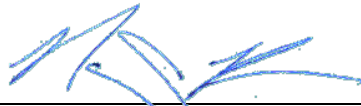
1 appearance, at the physical or electronic address stated therein. The Court may disregard any  
2 document received by a district judge or magistrate judge that has not been filed with the Clerk of  
3 the Court, and any document received by a district judge, magistrate judge, or the Clerk of the  
4 Court that fails to include a certificate showing proper service when it is required.

5 8. This case is no longer stayed.

6 The Clerk of the Court is **INSTRUCTED** to (1) electronically SERVE copies of this order  
7 and the First Amended Complaint, Docket No. 5, on the Office of the Attorney General of the  
8 State of Nevada by adding the Attorney General of the State of Nevada to the docket sheet, which  
9 does not indicate acceptance of service; and (2) send a copy of this order to the Finance Division  
10 of the Clerk's Office and to the attention of **Chief of Inmate Services for the Nevada**  
11 **Department of Corrections**, P.O. Box 7011, Carson City, NV 89702.

12 IT IS SO ORDERED.

13 DATED: January 6, 2023.

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17 NANCY J. KOPPE  
18 UNITED STATES MAGISTRATE JUDGE  
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